

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

FRIDAY, JUNE 22, 2001

10:08 A.M.

Reported by:
Valorie Phillips
Contract No. 150-99-002

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William Keese, Chairman

Robert Pernell

Arthur Rosenfeld

James Boyd, Ex Officio

STAFF PRESENT

Steve Larson

William Chamberlain

Robert Haussler

PUBLIC ADVISER

Roberta Mendonca

ALSO PRESENT

Cheryl Cooke

Wandi Messaye, Baldwin Hills Village Garden
Homeowners Association

Felicia Arbor
United Homeowners Association

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1 P R O C E E D I N G S

2 10:08 a.m.

3 CHAIRMAN KEESE: I call this meeting to
4 order. The senior members of the Commission have
5 decided that this is a tie-less meeting day, and
6 we will have our fashionplate give us the pledge.

7 (Whereupon, the Pledge of Allegiance was
8 recited in unison.)

9 CHAIRMAN KEESE: Thank you. We have
10 item 1 on our agenda today, the LaJolla Energy
11 Development, Inc., Baldwin Energy Facility Number
12 1, on which we have received a communication.

13 Commissioner Pernell, do you --

14 COMMISSIONER PERNELL: Thank you, Mr.
15 Chairman. Mr. Chairman, in my proposed decision I
16 recommended that the Commission deny certification
17 of the Baldwin Energy Facility No. 1 because the
18 applicant could not meet the Air District's BACT
19 requirements by September 30, 2001. And BACT, for
20 those on the phone, is best available control
21 technology.

22 And therefore, could not comply with the
23 Governor's executive order for emergency siting
24 cases.

25 After my proposed decision was published

1 the applicant filed a request to withdraw the
2 application. So, Mr. Chairman, at this time I
3 would move that we accept the request to withdraw
4 the application from further consideration and
5 close the case.

6 CHAIRMAN KEESE: Thank you, Commissioner
7 Pernell. I understand the applicant also
8 indicated they would not be refiling?

9 COMMISSIONER PERNELL: That is correct.
10 And that is the motion, Mr. Chairman.

11 CHAIRMAN KEESE: We have a motion to
12 accept the withdrawal and close the case on
13 Baldwin Energy Facility Number 1. Do we have a
14 second?

15 COMMISSIONER ROSENFELD: Second.

16 CHAIRMAN KEESE: Second by Commissioner
17 Rosenfeld.

18 All in favor?

19 (Ayes.)

20 CHAIRMAN KEESE: Opposed? Adopted three
21 to nothing. That case is closed.

22 I understand that we do have some people
23 on the phone. Do you have any questions regarding
24 this action?

25 MS. MENDONCA: Commissioner Pernell, the

1 telephone listeners are not interactive. They
2 will have to be called upon and asked. They can
3 hear what's going on in this room, but they cannot
4 speak up. So, --

5 CHAIRMAN KEESE: Okay, well, --

6 COMMISSIONER PERNELL: Do we have a list
7 of names?

8 CHAIRMAN KEESE: -- what I have
9 indicated to those in attendance here and to those
10 on the phone is that the applicant, the Baldwin
11 Facility Number 1 has withdrawn the application.
12 We have terminated the case. It is over. We are
13 not going to take any testimony on this issue
14 because it is not before us any longer.

15 I was going to give those on the phone
16 an opportunity to ask a question if they under --

17 MS. COOKE: Hello.

18 CHAIRMAN KEESE: Yes. Yes, we hear you.

19 MS. COOKE: Yes, I would just like to
20 thank Commissioner Pernell for all his cooperation
21 in working with us and listening to all the
22 community concerns. And we really appreciate all
23 of that.

24 CHAIRMAN KEESE: Thank you.

25 COMMISSIONER PERNELL: Thank you.

1 MS. COOKE: Thank you.

2 MS. MENDONCA: That was Ms. Cheryl
3 Cooke.

4 MS. COOKE: Yes, it was.

5 CHAIRMAN KEESE: Thank you, Ms. Cooke.

6 MS. COOKE: Thank you.

7 CHAIRMAN KEESE: All right, we will
8 then -- yes, do we have somebody else on the
9 phone?

10 MR. MESSAGE: Yes. Name is Wandi
11 Messaye, Baldwin Hills Village Garden Homeowners
12 Association.

13 And I would just like to thank
14 Commissioner Pernell and all the Commissioners.
15 I've badgered most of you, I'm sorry, in calling
16 and faxing things. But I am glad that they
17 withdrew the application.

18 Again, thank you very much for accepting
19 their withdrawal.

20 CHAIRMAN KEESE: Thank you.

21 COMMISSIONER PERNELL: Thank you.

22 MS. ARBOR: My name is Felicia Arbor.

23 CHAIRMAN KEESE: Thank you.

24 MS. ARBOR: From the United Homeowners
25 Association. I also wanted to extend our thank

1 you and congratulations to the Commission for
2 their granting us a second hearing. And to
3 Commissioner Pernell for coming to our community
4 and viewing our community, and giving us the
5 strength and the courage to pursue this.

6 CHAIRMAN KEESE: Thank you.

7 All right, I thank the members of the
8 public who called in. We're now on to your next
9 issue --

10 COMMISSIONER PERNELL: Mr. Chairman, --

11 CHAIRMAN KEESE: Commissioner Pernell.

12 COMMISSIONER PERNELL: -- I would be
13 remiss if I didn't thank staff for long hours and
14 helping us with this. Particularly Susan Gefter,
15 who was the Hearing Officer, who really worked
16 long hours and hard helping me put the decision
17 together.

18 And also Mr. Steve Wilburn from LaJolla
19 Energy Group who was a professional at all times,
20 and I'd just like to thank him for being a
21 professional in going through this process with
22 us.

23 CHAIRMAN KEESE: Thank you. We will
24 then take up the continuation item from our
25 previous meeting, the Ocotillo Energy Project

1 Phase I, data adequacy recommendation.

2 Staff.

3 MR. HAUSSLER: Mr. Chairman,
4 Commissioners, staff addressed you a week ago our
5 recommendation was not to accept the application.
6 The primary reason for that was that the South
7 Coast Air Quality Management District had not
8 given their acceptance letter to the applicant
9 concerning the applications to them.

10 We have received a letter from South
11 Coast, that they in fact now accept their
12 applications. We've supplied a letter to you
13 signed by Executive Director Steve Larson
14 indicating staff's recommendation to accept the
15 application.

16 I might say also that this application
17 has a variety of interesting issues that will need
18 to be addressed in a very very short timeframe.
19 Provisions under both the executive orders and
20 current law allow for applications to be accepted
21 without certain information that otherwise would
22 be required, such as offsets information that
23 would allow us to begin review of an offsets
24 package.

25 Information concerning impacts of the

1 project. And also allows a major stationary
2 source into the four-month emergency licensing
3 process.

4 We will be working diligently with the
5 Air District, EPA and agencies on air issues on
6 this project. Primarily the issues that are of
7 greatest concern to the District, ARB, EPA and
8 ourselves is the BACT level at which this project
9 would operate under major stationary source
10 provision.

11 They will need a PSD permit from EPA,
12 which is another often lengthy process that we
13 would want to address in a short timeframe.

14 We also will need to address endangered
15 species questions that may arise. However, we
16 don't think they will arise as a major issue on
17 this project, but it is desert tortoise habitat,
18 which is a federally listed species, as well as
19 state listed species.

20 We are anticipating that staff will work
21 on these issues between now and the 25-day
22 recommendation, whether or not this project can
23 remain a four-month AFC, at the end of that 25-day
24 period.

25 With that, if you have any questions

1 we'd be happy to answer questions.

2 CHAIRMAN KEESE: No, I have no
3 questions. I think you have raised a significant
4 issue, and this is probably the case in which we
5 should move forward aggressively on the issue.

6 And that is we recognize now what our
7 time schedule is. And we recognize that we have
8 Governor's executive orders that allow us to meet
9 this expedited timeframe.

10 And we also realize that there are
11 Presidential orders that are out there that
12 suggest that federal agencies should join with us
13 in meeting our timeframe.

14 So, with the executive order which
15 suggests that California entities and California
16 government entities should meet our timeframe, and
17 the federal suggestions that we should receive
18 accommodations to meet our timeframes, we can
19 achieve our timeframes.

20 But I believe that we're going to have
21 to, as we've seen, having had to put this over
22 because we did not get timely cooperation from an
23 Air District, I believe that somehow we should lay
24 out our schedule and how these other entities can
25 coordinate with our schedule, with some hint as to

1 why they might want to do that, because it has
2 been suggested that they will do it.

3 I'm not suggesting we have to tell them
4 the deadlines, but is that a fair suggestion that
5 might --

6 MR. HAUSSLER: Yes. We're certainly
7 already working on scheduling meetings, our first
8 one next week with EPA, ARB and the District
9 concerning the BACT question.

10 CHAIRMAN KEESE: I think we should do
11 that generically so that we, you know, this case
12 brings it up probably for the first time, but I
13 think we should be prepared for the other cases in
14 which it will occur.

15 So, we may as well set the precedent
16 here --

17 MR. HAUSSLER: And we will --

18 CHAIRMAN KEESE: -- and see if we can't
19 do this in the timeframe we are --

20 MR. HAUSSLER: I wholeheartedly agree.
21 We will have to set an ambitious schedule. And we
22 certainly have had cooperation from these agencies
23 in past cases. They're getting used to us. Not
24 to say it's easy, but it's do-able in the context
25 of getting these agencies together and getting

1 answers to the questions that we must address.

2 Of course, the executive orders and
3 provisions of, for instance, Senate Bill 28, don't
4 absolve the Commission from making the findings
5 we must make, still, even in the short timeframe.

6 And so we are set to pursue that.

7 CHAIRMAN KEESE: Well, we have to bring
8 all these executive orders and federal orders to
9 the attention of the appropriate other agencies.

10 We heard from the applicant quite
11 extensively on the project last time. Does any
12 Commissioner care to get any more information from
13 the applicant?

14 All right. Do we have a motion on data
15 adequacy? We have a recommendation from our
16 Executive Director.

17 COMMISSIONER PERNELL: Mr. Chairman, I
18 would move the recommendation of the Executive
19 Director's data adequacy for this project.

20 CHAIRMAN KEESE: Motion by Commissioner
21 Pernell.

22 COMMISSIONER ROSENFELD: Second.

23 CHAIRMAN KEESE: Second by Commissioner
24 Rosenfeld.

25 CHAIRMAN KEESE: All in favor?

1 (Ayes.)

2 CHAIRMAN KEESE: Opposed? Adopted three
3 to nothing.

4 MR. HAUSSLER: Thank you.

5 CHAIRMAN KEESE: Thank you. Good luck,
6 we're on our way. Sorry it took an extra few
7 days.

8 Mr. Larson, would we have anything under
9 Energy Commission Committee and Oversight?

10 MR. LARSON: Committee assignment.

11 CHAIRMAN KEESE: Oh, we would like a
12 Committee, huh? Commissioner Rosenfeld moves --

13 (Laughter.)

14 CHAIRMAN KEESE: -- that Commissioner
15 Pernell be lead on this, and that Commissioner
16 Keese be Second on the Ocotillo Energy Project
17 Phase I.

18 COMMISSIONER ROSENFELD: I'd move
19 enthusiastically.

20 CHAIRMAN KEESE: Enthusiastically
21 Commissioner Rosenfeld moves. Commissioner
22 Pernell seconds.

23 All in favor?

24 (Ayes.)

25 CHAIRMAN KEESE: Opposed? That will be

1 our Committee.

2 Thank you for bringing that to my
3 attention. Chief Counsel's report?

4 MR. CHAMBERLAIN: Yes, Mr. Chairman. As
5 I've indicated to you in an email there was
6 litigation filed this week relating to the
7 existing Potrero Project in San Francisco.

8 And at some point it will be appropriate
9 for us to come to you in closed session to discuss
10 whether the Commission should be involved in that
11 litigation in one way or another.

12 But, I think --

13 CHAIRMAN KEESE: And the timing on that
14 is?

15 MR. CHAMBERLAIN: -- it's premature. We
16 don't know of any emergency motions that are being
17 filed. So far there has been a complaint filed,
18 and it hasn't been served. There has been a 60-
19 day notice issued to EPA and to the Bay Area Air
20 Quality Management District.

21 MR. LARSON: I would add that it's also
22 interesting to note that reports this morning are
23 that the operator, Mirant, ramped down the hours
24 of the facility at Potrero. That's the first time
25 under the circumstances that that's happened.

1 But, of course, it means less megawatts at the
2 pricing level.

3 CHAIRMAN KEESE: It would seem to me
4 that we should get as full a Commission as
5 possible for this discussion, but that we should
6 not delay this extraordinarily long.

7 So, I would ask --

8 MR. CHAMBERLAIN: Well, I could be ready
9 as early as next Wednesday. It might be better if
10 we do it on Friday if we have a meeting on Friday.

11 CHAIRMAN KEESE: So, I will ask my staff
12 to find out how close we'll come to having all
13 five -- six members of us here. And we will
14 schedule this discussion for that meeting.

15 MR. CHAMBERLAIN: Very good.

16 CHAIRMAN KEESE: Anything else to be
17 brought before the Commission?

18 Mr. Executive Director?

19 MR. LARSON: Not at this time.

20 CHAIRMAN KEESE: Public Adviser?

21 MS. MENDONCA: Very briefly, I would
22 also like to take the opportunity to thank my
23 staff that worked exceptionally hard on the
24 Baldwin emergency peaker case.

25 Tom Cleary, who was representing Pacific

1 Gateway, our contract Public Adviser, from San
2 Diego, and his staff. I was there and Priscilla
3 Ross of my staff were there. And we have had
4 thousands of contacts on this project. And my
5 staff has worked very hard to make sure that the
6 Commission and the docket is aware of each and
7 every public contact.

8 Thank you.

9 CHAIRMAN KEESE: Thank you. And I
10 believe that I can speak for the Commissioners up
11 here, that we were aware of this case, also. They
12 did get our name and our email address, too.

13 Anything else?

14 Meeting adjourned.

15 (Whereupon, at 10:25 a.m., the meeting
16 was adjourned.)

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of June, 2001.

VALORIE PHILLIPS

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